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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,083	03/26/2004	Laura Bridge	160-071	8218
34845 7590 05/14/2007 McGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720			EXAMINER AJAYI, JOEL	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 05/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/810,083

Applicant(s)

BRIDGE ET AL.

Examiner

Joel Ajayi

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to Applicant's amendment filed on March 26, 2007. **Claims 1-17** are still pending in the present application. **This action is made FINAL.**

Response to Arguments

Applicant's arguments filed March 26, 2007 have been fully considered but they are not persuasive.

The argument features an access point that can be converted to a probe device.

It is well known in the art that a base station/ base station controller can be an access point. Cook discusses that the base station controller receives its command/direction from the MSC to supervise calls, insert data onto control and user channels, and perform diagnostic tests. Cook does not state that these functions are performed simultaneously; rather when the base station controller receives direction it performs the needed function. Therefore Cook et al. discloses the limitation of "an access point that can be converted to a probe device."

With regard to the applicant's argument that Cook does not disclose an access point that can be converted to a probe device, the examiner disagrees; because the limitation given it's broadest reasonable interpretation reads on Cook.

As a result, the argued features are written such that they read upon the cited references.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Cook et al. (U.S. Patent Number: 5,974,331)** in view of **Kang (U.S. Patent Number: 6,831,903)**.

Consider **claim 1**; Cook clearly discloses a method for monitoring a wireless network comprised of a plurality of access points (base stations) coupled to a plurality of stations (column 3, lines 56-64), the method comprising the steps of: converting a selected access point into a probe device (column 3, lines 56-64); performing probe operations (diagnostic) by the probe device (column 3, lines 56-64).

Except:

Forwarding information retrieved from the probe operations to a management device.

In the same field of endeavor Kang clearly discloses forwarding information retrieved from the probe operations to a management device (column 10, lines 13-54).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teachings of Kang into the method of Cook in order to provide a highly reliable and efficient wireless communication system.

Claims 2-10, 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al. (U.S. Patent Number: 5,974,331) in view of Sherlock (U.S. Patent Application Number: 2003/0123420).

Consider **claim 11**; Cook clearly discloses a device (base station) (column 3, lines 56-64) comprising: means for operating as an access device to permit a plurality of wirelessly coupled devices to communicate with a wired network, the access device and the plurality of wirelessly coupled devices forming a wireless network (column 3, lines 56-64); means for operating as a probe device for scanning the plurality of wirelessly coupled devices (column 3, lines 56-64); and means for selectively operating as either the access device or the probe device (diagnostic) in response to receipt of a command at the device (column 3, lines 56-64).

Except:

Obtaining operating statistics for the wireless network.

In the same field of endeavor Sherlock clearly discloses obtaining operating statistics (error statistic) for the wireless network (paragraph 8, lines 1-17).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teachings of Sherlock into the method of Cook in order to provide systems and methods for detecting and locating interferers in a wireless communication system.

Consider **claims 2-10, 12-17**; the combination above clearly discloses the step of converting the selected access point includes the step of forwarding a Probe command to the selected access point (paragraph 19, lines 1-16; paragraph 31, lines 1-16; paragraph 43, lines 1-21; paragraph 56, lines 1-14).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

Art Unit: 2617

Examiner should be directed to Joel Ajayi whose telephone number is (571) 270-1091. The Examiner can normally be reached on Monday-Thursday from 7:30am to 5:00pm and Friday 7:30am to 4:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Joel Ajayi

May 03, 2007


NICK CORSARO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600